

86th Legislative Session – 2011

Committee: Joint Appropriations

Tuesday, January 18, 2011

P - Present
E - Excused
A - Absent

Roll Call

P Sutton
P Haverly
P Heineman
P Novstrup (Al)
P Peters
P Putnam
P Rampelberg
P Dennert
P Wismer
P Juhnke
P Bolin
P Romkema
P Dryden
P White
P Tidemann
P Carson
P Brown, Vice-Chair
P Wink, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Chairman Dean Wink.

Department of Social Services

Kim Malsam-Rysdon, Secretary of Social Services met with the Appropriations Committee to present a briefing on the department's programs. Also in attendance were Brenda Tidball-Zeltinger, Lynne Valenti, Larry Iversen, Virgena Wiseler, Laura Schaeffer, Doug Dix, Pat Monson, Carrie Johnson, Terry Walter, and Marilyn Kinsman. Document No. 1 was distributed.

Secretary Malsam-Rysdon told the Committee the department's current budget is \$934,908,433, 30.4% of which is general funds and 68.7% federal funds. Medicaid and CHIP make up 79.5% of the department's budget.

Secretary Malsam-Rysdon briefed the Committee on the department's vision, mission statement and guiding principles. Secretary Malsam-Rysdon said the department believes families have the right to be safe and secure, especially vulnerable citizens and along that line the department believes in a "no wrong door" approach. If the department is unable to help someone directly, they will work to get them to the right agency.

The department's goals include:

1. Increase access to quality services for our customers.
2. Reduce abuse, neglect and exploitation of vulnerable people.
3. Continually improve customer service.
4. Manage internal processes and procedures to achieve our mission.
5. Ensure employees possess necessary competencies.

Representative White asked how South Dakota compares with surrounding states in regard to technology. Secretary Malsam-Rysdon said she felt the department was comparable; however, there are a number of systems that need to be updated and updating these systems is a huge undertaking. The department is currently working on updates that will make it easier for the public to access information and services.

Senator Putnam asked how the department hires its employees. Secretary Malsam-Rysdon said the department works closely with the Bureau of Personnel to fill vacant positions. The Bureau advertises the position and the department conducts the interviews and screening process.

Senator Tidemann asked how the department measures the success of its goals. Secretary Malsam-Rysdon said each goal and objective has strategies with a time frame in which to accomplish the goal. The department has a management team that reviews the strategic plan on a quarterly basis to ensure the department is working toward accomplishing their goals.

Senator Heineman asked what quality assurance processes are in place to promote continuous improvement. Secretary Malsam-Rysdon said because they have so many federal funding sources, they often start with the federal requirements. Because permanency for children is so important to the department they evaluate where the children are placed and how many times that placement has changed. Secretary Malsam-Rysdon said this would be one example of a quality assurance measure. Another example would be response time; is action being taken within the 30 day window.

Representative Bolin asked if the department had a contingency plan in place if federal funds are reduced. Secretary Malsam-Rysdon said the department has discussed this issue; however, they do not foresee any major changes in the federal funding sources they use.

Representative Juhnke asked if the hiring freeze was still in place and how did that affect the department. Secretary Malsam-Rysdon said because of the nature of their work, the department has been allowed to fill critical positions; however, they review all vacant positions and consider all options.

Representative Romkema asked if federal funds will be reduced in proportion to reductions in state general funds. Secretary Malsam-Rysdon said in most areas yes, especially where federal funds are tied to a state match. This will involve several programs in addition to Medicaid.

Senator Putnam asked for information on the Board of Social Services. Secretary Malsam-Rysdon said the 7-member Board was established in statute many years ago. The Board meets twice a year and provides a citizens perspective on various issues. The Board receives travel expenses and has no regulatory authority.

The department has 35 full-time offices statewide and 29 itinerant offices. Senator Sutton asked how many offices were in state-owned facilities and how many in rented facilities. Secretary Malsam-Rysdon said almost all are rented. The department works with the Bureau of Administration on lease options, and uses the Bureau's established lease fee schedule.

Office of the Secretary

The Office of the Secretary provides administration and direction to all areas of the department. Specific focus areas include Finance, Legal Services, Operations and Technology, Administrative Hearings, Constituent Liaison Services, Information and Statistical Services and Victims Services. The department has 995.5 budgeted FTE.

Division of Child Protection Services

This division provides services for families referred due to safety concerns of children relating to neglect, physical, sexual or emotional abuse; and handles kinship, foster and adoptive families.

In FY10 the division processed 14,900 reports of child abuse and neglect of which 3,910 (26%) were assigned for further assessment. Representative Dennert asked about the difference in the number of complaints and those that are assigned further assessment. Secretary Malsam-Rysdon said they follow-up and investigate or assess every report. There are often repeat allegations and the department does take that into account when doing the initial screening process. Senator Rampelberg asked how complaints or reports are made. Secretary Malsam-Rysdon said reports are often phoned in to the department, as well as reports received from schools and medical providers and many are anonymous. State statute lists mandatory reporters that are required to report child abuse or neglect.

The department has, on a monthly average, 1,212 children in paid placement, 215 children in kinship care and 139 children in trial reunification. In addition, in FY10, 173 children were in subsidized guardianship, 147 in adoptive placements and 1,473 children received adoption assistance. The department had 750 licensed foster homes as of December 2010 and child protection services staff are located in 21 communities throughout the state.

Representative Wink asked what children can expect from Social Services once they get into the system. Secretary Malsam-Rysdon said this is an area where quality assurance measures are in place. The children have a face-to-face contact in the home once a month in addition to routine contacts.

Division of Child Support

This division helps locate non-custodial parent addresses, income sources and/or assets; establishes paternity for children born out of wedlock; establishes and enforces child support orders, enforces health insurance coverage, processes modification of support order requests and collects and distributes child support payments. In FY10 the department collected child support for 49,500 families with staff located in 8 communities across the state. South Dakota's Division of Child Support was ranked No. 1 in the nation for the 10th consecutive year.

Representative Wismer asked what percent of child support cases the department is involved in. Terry Walter, Director of Child Support said approximately 60%. In addition, there are approximately 10,000 cases where the department processes the payment because the court orders payments go through the department. Mr. Walter said they are required to provide services to any single-parent family if they make application for services. Those non-TANF cases make up 85% of the total cases. Mr. Walter said it is typically up to the custodial parent if they want to go through the department for assistance in collecting child support. Representative Wink asked if people can be incarcerated for non-payment of child support. Mr. Walter said yes, court action can be pursued if there is no other way to collect the funds. This is generally a last resort effort and happens on less than 10% of the cases. Representative Dennert asked for information on the area covered by the 8 agencies. Mr. Walter said each office is assigned a certain number of counties.

Division of Child Care Services

Secretary Malsam-Rysdon said because South Dakota has such a high number of women who work outside the home, child care services and assistance to working families is critical. The department serves an average of 3,024 families each month, involving 5,188 children. South Dakota has 919 registered family child care providers and 421 licensed child care centers. Services include subsidies to assist eligible families with child care costs, licensing and registration of child care programs, training opportunities for providers and the Governor's child seat program. Secretary Malsam-Rysdon told the Committee that subsidies for child care costs are paid directly to the provider. The subsidies are based on the family's income and cover families up to 200% of the federal poverty level. Participating families are responsible for a co-payment.

Representative Juhnke asked if there was a minimum number of hours required for the child care subsidy. Secretary Malsam-Rysdon said there is not a minimum number of hours for child care; however, there is a minimum number of hours the family has to be working or going to school.

Senator Haverly asked for information on after school programs. Secretary Malsam-Rysdon said currently no school districts receive this subsidy, and any program that receives this subsidy,

whether a typical day care or an after school program, has to be licensed. If a family chooses a different child care arrangement, they will not be eligible for the subsidy. Senator Haverly said it was important to note that it is not the program but the parent that is qualifying to receive the subsidy. Senator Haverly asked if a school district has a child care program do they also receive the ADM payment. Secretary Malsam-Rysdon said that would be a question for the Department of Education.

Senator Heineman asked if a family could receive child care benefits and qualify for Head Start. Secretary Malsam-Rysdon said yes, a family could qualify for both; however, the department has a requirement for the number of hours the parent needs to be in school or at work.

In response to Senator Tidemann's question, Secretary Malsam-Rysdon will provide information on the percent of daycare centers in South Dakota that are licensed.

Division of Adult Services and Aging

Secretary Malsam-Rysdon said the department provides services for individuals age 60 and older as well as adults with disabilities. The wide variety of services is primarily provided through contracts with private providers. For in-home services, 37 community based agencies provide services to 6,008 individuals. In FY10 1.4 million meals were served daily to an average of 5,665 individuals. In addition 25 programs provided transportation services to 9,854 individuals.

Representative Juhnke asked what community based service providers were paid. Ms. Tidball-Zeltinger said in-home service providers are paid an average rate of just over \$20/hr. Meal rates in the Meals Program are reimbursed at a rate of \$3-5/meal. The assisted living waiver program is reimbursed at a rate of \$50/day. Representative Juhnke asked if that burden falls on the individual or is it state reimbursed. Ms. Tidball-Zeltinger said there is a suggested donation for the meal program and a co-pay for in-home services determined by the individuals income.

Representative Wismer asked what the utilization trends had been for the meals program and which in-service programs use general funds. Secretary Malsam-Rysdon said trends for in-home services are up primarily because more individuals are eligible and need assistance in order to stay in their homes. In regard to nutrition, the trends have stayed relatively constant; however there has been a decrease in some areas but there is also a corresponding decrease in population. In regard to general funds, both the meal and transportation programs have a general fund match of 25-30%. Senator Rampelberg asked who determines an individual's qualification. Secretary Malsam-Rysdon said department staff assess the applicants needs to determine who is qualified and for what programs, and the department uses federal guidelines and regulations in their assessment. Senator Rampelberg asked if the department reviews what the benefits might be for those that qualify. Secretary Malsam-Rysdon said yes. The department has administrative rules, an "Aging Council" that reviews issues, and in addition seeks input from the providers and those receiving the service.

Representative Wink asked if the department had a priority for its programs or were they mandated. Secretary Malsam-Rysdon said the department has a number of services that have to

be provided if the individual qualifies, for example Medicaid. In other areas the department has the flexibility to create priority populations and do different things in how they serve people using available funding.

Senator Heineman asked what measures the department uses to validate the community-based services. Secretary Malsam-Rysdon said they look at percent of use relative to the population, and measure themselves against other states.

Secretary Malsam-Rysdon said the department provides services to 3,591 consumers in long-term care and 743 in assisted living care facilities. There are Adult Services and Aging specialists located in 25 communities across South Dakota.

Long Term Care Initiatives

Secretary Malsam-Rysdon told the Committee the 2006 Legislature had authorized the department to do a study on long term care which was completed in November 2007. The study showed that our state does not use the home and community based services to the same degree as other states, but rely heavily on nursing home facilities, which are some of the most costly services. In order to meet the needs of our citizens in the future, South Dakota needs to triple its use of home and community based services. In 2009, two workgroups were formed to implement the Long Term Care Task Force recommendations of Home and Community Based Services and Single Point of Entry.

The task force also recommended that the department develop regional centers to serve as a single point of entry to better serve our citizens. This single point of entry would provide one place to go where everyone receives the same information, where screening to determine needs is available and where the citizen can receive referrals to the appropriate provider.

The department applied for and received a federal grant to develop an Aging and Disability Resource Connection (ADRC). The \$240,000/year grant was awarded in October 2009 and runs through October 2012. The first ADRC will launch in Sioux Falls in late January of 2011 with ADRC's available statewide by October 2012. The population to be served includes people over age 60 and people over age 18 who have physical disabilities and need long term support services. Senator Rempelberg asked how this program will be marketed. Secretary Malsam-Rysdon said they had to develop strategies for getting this information to the public. In addition to spreading the word at community meetings and word of mouth, Secretary Malsam-Rysdon said it needs to be at the top of the list on internet search engines, when people are looking for information on home health issues in South Dakota.

Secretary Malsam-Rysdon said the grant had been in existence for some time and South Dakota was one of a few states that did not have the grant. While it is not mandatory, the federal government is strongly encouraging states to participate. The department structured the grant application around using it for costs that will not be an ongoing expense, such as developing the new website. Senator Putnam asked if South Dakota was in good shape in regard to federal

audits. Secretary Malsam-Rysdon said the department is audited every year and each and every federal grant is reviewed.

Representative Juhnke asked if all long term care facilities are licensed and inspected. Secretary Malsam-Rysdon said yes, the facilities are licensed and inspected by the Department of Health.

Division of Economic Assistance

This division provides services for low income families, children and individuals, elderly citizens and people with disabilities. In addition the division provides eligibility determination for programs including:

- Medicaid (Title XIX and CHIP) involving 111,005 people monthly on average in FY10, and
- Supplemental Nutrition Assistance Program (SNAP) serving 38,442 households monthly on average in FY10. SNAP was formerly known as food stamps.

For the last 26 years, South Dakota has received \$15,031,934 in performance bonus funding to administer the SNAP Program. Senator Haverly asked if the bonus funding shows up in the budget. Secretary Malsam-Rysdon said yes, it is included in Other Fund category in the SNAP program.

The division also provides eligibility determination for:

- Low Income Energy Assistance Program
22,585 households received assistance in FY10
1,132 homes were weatherized in FY10
- Temporary Assistance for Needy Families
3,197 average monthly cases
- Other services including referrals to other providers, education assistance for 557 youth at risk, and Community Action Program.

Senator Brown asked about the expansion in the low income energy assistance program. Secretary Malsam-Rysdon said the department saw a huge influx of dollars for this program in stimulus funds. Ms. Tidball-Zeltinger said South Dakota received \$24.4 million for weatherization and has spent \$9 million through December 2010. The funding has to be obligated by March of 2012 and spent by March of 2015. Senator Brown asked for information on community action programs and how they partner with the department. Secretary Malsam-Rysdon said community action programs are designed to serve the poorest of the poor. The programs provided are income tested and are typically at very low income levels. They provide the most basic needs such as financial assistance for rent or food. There are 4 agencies across the state located in Madison, Lake Andes, Rapid City and Sisseton. Representative Wink asked what percentage of families is in this category. Secretary Malsam-Rysdon will provide that information. Senator Heineman asked for the funding source for community action programs. Secretary Malsam-Rysdon said in part from the department through a block grant with additional funds from the local community.

Another program under the Division of Economic Assistance is Temporary Assistance for Needy Families (TANF).

- TANF funds are used to provide assistance to needy families so children may be cared for in their own homes or in the homes of relatives.
- TANF is a work program that emphasizes ending dependence on government benefits by promoting job preparation and work.
- Benefits are limited to lifetime total of 60 months, unless the recipient is an adult living on a reservation with an unemployment rate of 50% or higher.

TANF funds are used for:

- Cash grants to families
- Work Programs
- Child welfare – emergency assistance
- Child care for TANF families
- Specialized services for pregnant women and their children

Senator Haverly asked if other agencies use TANF money. Secretary Malsam-Rysdon said yes, the department receives and disperses the funds to the other agencies such as the Departments of Health, Labor and Human Services. The funds would show up in the budget as federal dollars. Secretary Malsam-Rysdon said the department is seeing an increase in the number of families qualifying for both SNAP and TANF funding.

Representative Wismer requested a history of TANF funding and how many families have used this service. Secretary Malsam-Rysdon said the last efforts to reform this funding were in 1996 when the entire welfare program was overhauled and that was when TANF funding in its present form came to be. A lot more people qualified at that time. The 3,000 family mark has been consistent for the past 5 years; however, with the current financial situation the numbers are increasing. Secretary Malsam-Rysdon will provide additional information on the history of TANF. Representative White asked if the increase was due to more demand or to changes in qualifications. Secretary Malsam-Rysdon said the increase is because more people qualify for services.

Division of Medical Services

This division administers the state Medicaid program and provides services for:

- Elderly and citizens with disabilities
- Low income children, pregnant women, adults and families
- Children in foster care

The services provided must be medically necessary and physician ordered. Seventy percent of what is spent on Medicaid involves the “Big 4”:

- Inpatient
- Outpatient
- Physician

- Prescription Drugs

Eligibility for Medicaid

- Individual eligibility depends on whether a person meets specific eligibility criteria, resources and income.
- The federal government establishes minimum and maximum income guidelines for specific eligibility groups.
- South Dakota has a conservative program compared to other states.
- The federal government requires states to cover certain categories and requires which services are mandatory and option services.

Representative Dryden asked if the state had any flexibility in setting the guidelines. Secretary Malsam-Rysdon said the state has to meet the minimum for the category of people that have to be covered. Representative Dennert asked how many more people would qualify if South Dakota would lower the qualifications. Secretary Malsam-Rysdon will provide that information. However, two-thirds of the people served in Medicaid and CHIP are children, and most of them fall into the income category of 133% or below. A majority of who are served have to be served.

Representative Bolin asked if the state is legally bound to participate in Medicaid. Secretary Malsam-Rysdon said no, it is voluntary program that most states elect to participate in. Representative Juhnke asked if half the births in South Dakota are eligible for Medicaid. Secretary Malsam-Rysdon said less than half the births are eligible; however, half of the children 0-1 years of age are covered and that number has remained constant.

Required Services covered by Medicaid include:

- Services to children through “Early, Periodic, Screening, Diagnosis and Treatment” (the state has options when it comes to adults).
- Inpatient and outpatient hospital
- Physician services
- Nursing facility services for individuals age 21 or older
- Emergency dental services
- Emergency Medical Transportation
- Lab and X-Ray
- FQHC/Rural Health Care Center Services
- For certain people eligible for Medicare-Medicaid must pay co-insurance/deductibles; buying them into Part A or B.

How many people does South Dakota Medicaid cover?

Average monthly eligibility for FY10 was 111,005 involving:

- Elderly – 6,957
- Disabled – 16,856
- Children of low-income families – 61,275
- Pregnant women (pregnancy only) – 2,829

- Low-income adults – 10,900
- Children's Health Insurance Program – 12,188

Total Unduplicated = 139,666

In response to Senator Putnam's question, Secretary Malsam-Rysdon said "unduplicated" is the total number of people eligible during the year, some may fall off, some receive several services, and some may not receive any. Representative Carson asked how many qualified but did not file for services. Secretary Malsam-Rysdon estimated 7%.

How many people does SD Medicaid cover?

Nearly 1 of every 7 persons (adults and children) in South Dakota in any given month has health coverage through Medicaid or CHIP. One of every 3 children under the age of 19 in South Dakota has health coverage through Medicaid or CHIP. Fifty percent of the children born in South Dakota have health coverage through Medicaid or CHIP during the first year of their life.

Medical Services – All eligibles

Secretary Malsam-Rysdon said the department saw slower rates of growth from FY06 through FY09; however, since FY09 the growth rate is higher for those eligible. Representative Wink asked if the federal Health Reform Act will impact this growth rate. Secretary Malsam-Rysdon said yes, 52,000 more people will be eligible.

Senator Brown commented on the decline in eligibles in July 2010 for Medical Services as well as TANF and SNAP. Secretary Malsam-Rysdon will provide the Committee with information on this issue. Senator Heineman asked if doctors are able to provide input to the department regarding Medicaid issues. Secretary Malsam-Rysdon said yes, the department has a Medicaid Advisory Committee and they do seek input from the care providers.

In response to Representative Dryden's request, Secretary Malsam-Rysdon will provide information on the demographic breakdown of Medicaid monthly eligible totals by county.

Recipient Responsibility

- Adults on Medicaid pay co-payments for certain services.
- Children are exempt from co-payments per federal requirements.
- Certain services such as psychiatric inpatient and rehab services are exempt from co-payments.
- Co-payment amounts are reduced from the amount Medicaid pays the provider.

Key Short Term Issues

- Secretary Malsam-Rysdon told the Committee the department has a number of key short-term issues:
- Serving vulnerable people in South Dakota in their communities
- Serving record numbers of people without additional staff resources
- Successfully transitioning behavioral health services to DSS
- Implementing health care reform

Health Care Reform

Secretary Malsam-Rysdon told the Committee the Patient Protection and Affordable Care Act will have major impacts on the Department of Social Services and the state of South Dakota. Medicaid will be expanded in 2014 to cover all individuals age 19-65 with incomes up to 138% FPL. This is projected to increase eligibles by 52,000; and a majority of those will be single adults, without children, who are currently not eligible. The estimated cumulative cost to the state is \$100 million by 2020. Secretary Malsam-Rysdon will provide the Committee with the estimated impact by fiscal year.

The newly eligible individuals will receive different services from what is currently covered by Medicaid and those services are currently being determined by the federal government. The federal government will pay 100% of service costs for new eligibles for 2 years, and then the federal share will gradually decrease to 90% by 2020.

Senator Rampelberg asked if co-payments will be impacted by the new Health Reform Act. Secretary Malsam-Rysdon said in reference to co-payments, the state reduces the amount paid to the provider; it is up to the provider to collect the co-pay. The department does not anticipate any co-payment changes.

Senator Heineman asked what changes the department had implemented to manage Medicaid costs. Secretary Malsam-Rysdon said they work on that issue every day. A good example would be the prescription drug program where people are encouraged to use generic drugs. The department is also working to decrease inappropriate emergency room use. Patient education is a big part of the plan.

Senator Brown asked if income guidelines stay the same when a child is separated from parents. Secretary Malsam-Rysdon said when a child is referred to the Department of Corrections they become the custody of the state and are on Medicaid. Additional information will be provided regarding if that is a federal requirement.

The health care reform act requires the department to have a website for people to apply and renew enrollment in Medicaid; this website must be linked to the Exchange website. The act will also bring changes on how eligibility is determined and takes away the complexity of what gets counted as income and what doesn't. The department is waiting for federal guidance on how this will work.

The state has the option of implementing a health care exchange. The exchange is a market place where people can come and understand what their health insurance options are. The exchange must be able to enroll people in Medicaid directly, but the department must ensure people meet eligibility requirements. The exchange will require changes to the department's current information systems and eligibility processes.

CLASS Act implementation

Another part of the Health Care Reform Act is the CLASS Act (Community Living Assistance Services and Supports). This is a voluntary national insurance program for purchasing community living assistance services and supports. Speculation is that the premiums will be so high not many will participate.

Elder Justice Act

This act has not been appropriated but if it is, the department will receive additional funding for state adult protective services and state ombudsman programs.

In response to Senator Haverly's request, Secretary Malsam-Rysdon will provide information on how many school districts have licensed child care programs.

Senator Heineman asked for information on the primary care case management program. Secretary Malsam-Rysdon said the state pays \$3/month/member fee to primary providers who then assume responsibility for managing a patient's care, in particular for non-primary care services. As far as success, Secretary Malsam-Rysdon said the providers feel it is effective but with a lack of historical data, we are unable to really give it a success rating yet.

MOTION: ADJOURN

Moved by: Haverly
Second by: Carson
Action: Prevailed by voice vote.

Barb Bjorneberg
Committee Secretary

Dean Wink, Chair